THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.5045 of 2006

-

ORDER:

The petitioner and his family members allegedly purchased land admeasuring Acs.7.35 guntas in survey Nos.90 and 92 to 96 situated at Madinaguda Village of Serilingampally Mandal in Ranga Reddy District from Dr.S.Surendranath Reddy and Smt.Padmavathi Devi. The petitioner alleges that the land in survey Nos.90 and 92 to 96 was owned by Smt.Habibunnisa Begum as pattadar. She in turn sold the property to one Rama Seshaiah under sale deed dated 06.4.1963, after allegedly obtaining necessary permission under Sections 47 and 48 of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (the Act, for brevity). These persons in turn sold the property to Smt.P.Padmavathi and her brother Mahadev Reddy. The petitioner also alleges that the land was never under the tenancy of any person. One Tandra Swamy claimed to be protected tenant but no such certificate was given to him. Nonetheless respondents 2 to 4 claiming themselves to be wife and sons of Tandra Swamy obtained a succession certificate from the first respondent vide proceedings dated 23.7.2003 and then filed an application under section 32 of the Act for restoration of possession. The first respondent entertained the same and issued notice bearing No.B/52/95, dated 10.11.2005 to the second respondent as well as forty (40) other persons, who are in possession of the land in survey Nos.90 and 92 to 96. The petitioner was also given notice, aggrieved by which, the present writ petition is filed.

Learned Counsel for the petitioner submits that Tandra Swamy was never the protected tenant, that the succession certificate obtained by respondents 2 to 4 is null and void and that in the absence of any protected tenancy certificate issued to late Tandra Swamy, the respondents 2 to 4 are not entitled to seek possession under Section 32 of the Act.

It is now well settled that at the stage of notice, writ petition would not lie. In this case, as required under Section 32 of the Act as well as Rules framed under the Act to regulate the procedure under Section 32 of the Act for restoration of possession, the first respondent issued notice and, therefore, the same cannot be treated as without jurisdiction or beyond the provisions of the law. The writ petition is wholly misconceived. It shall, however, be open to the petitioner to approach the first respondent and raise all objections.

The writ petition, with the above observations, is accordingly dismissed. No costs.

_____

(**V.V.S.RAO, J**)

August 09, 2006.

YS